

FED DEC 7 1600 AM '10
FBI PORTLAND

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

HAL ANTHONY,

Petitioner,

Civ. No. 10-3053-CL

v.

ORDER

KEN SALAZAR, Secretary of the
Interior; et al,

Respondents.

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation ("R & R") [#15], and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Petitioner filed objections [#18] to the R & R. Accordingly, I have reviewed the file of this case *de novo*. See 28 U.S.C. § 636(b)(1)(c); McDonnell Douglas Corp. v. Commodore Bus. Mach.,

Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). I conclude the R & R is correct.

On June 7, 2010, petitioner filed an application for leave to proceed *in forma pauperis*. The application contained insufficient financial information to determine whether the court should grant the application (and waive the \$350.00 filing fee). On June 29, Magistrate Judge Clarke notified petitioner that the application was insufficient and mailing a copy of the court's application to proceed *in forma pauperis*.

Rather than filling out the form, petitioner apparently desired to proceed to the merits of his case. On September 20, Judge Clarke notified petitioner that he had yet to provide the completed form and had not paid the filing fee. Judge Clarke ordered petitioner to show cause for his failure to comply with the scheduling orders, notifying petitioner that failure to comply would result in dismissal of the case. In response, petitioner provided no cause for his failure to fill out the *in forma pauperis* application provided neither three months prior.

On September 30, Judge Clarke submitted a R & R recommending dismissing the petition for lack of prosecution. In response to the R & R, petitioner provides no financial information, and appears again to discuss the merits of his petition. Despite numerous opportunities, petitioner provided no financial or employment information to the court. Without this information, it is impossible for the court to determine whether to waive the \$350.00 filing fee. Given the circumstances, the petition must be

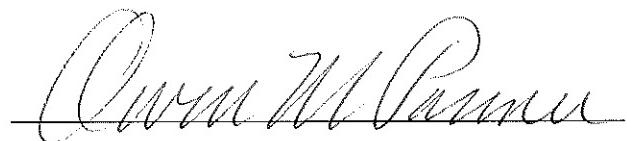
dismissed for failure to prosecute.

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#15) is adopted. The petition is dismissed without prejudice.

IT IS SO ORDERED.

DATED this 1 day of December, 2010.



OWEN M. PANNER
U.S. DISTRICT JUDGE